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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on 26th August, 1987:—

BILL NO. 93 OF 1987

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Fifty-eighth Amendment) Act, 1987.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) In article 332 of the Constitution, after clause (3), the following clause shall be inserted, namely:—

“(3A) Notwithstanding anything contained in clause (3), until the taking effect, under article 170, of the re-adjustment, on the basis of the first census after the year 2000, of the number of seats in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly of any such State shall be,—

(a) if all the seats in the Legislative Assembly of such State in existence on the date of coming into force of the Constitution

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Amend-
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article
332.

(Fifty-eighth Amendment) Act, 1987 (hereafter in this clause referred to as the existing Assembly) are held by members of the Scheduled Tribes, all the seats except one;

(b) in any other case, such number of seats as bears to the total number of seats, a proportion not less than the number (as on the said date) of members belonging to the Scheduled Tribes in the existing Assembly bears to the total number of seats in the existing Assembly.”.

(2) The amendment made to article 332 of the Constitution by subsection (1) shall not affect any representation in the Legislative Assembly of the State of Arunachal Pradesh or the Legislative Assembly of the State of Meghalaya or the Legislative Assembly of the State of Mizoram or the Legislative Assembly of the State of Nagaland until the dissolution of the Legislative Assembly of the State of Arunachal Pradesh or the Legislative Assembly of the State of Meghalaya or the Legislative Assembly of the State of Mizoram or the Legislative Assembly of the State of Nagaland existing at the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS

The Constitution (Fifty-first Amendment) Act, 1984 was enacted to provide for reservation of seats in the House of the People for the Scheduled Tribes in Nagaland, Meghalaya, Mizoram and Arunachal Pradesh and also for reservation of seats for Scheduled Tribes in the Legislative Assemblies of Nagaland and Meghalaya by suitably amending articles 330 and 332. Even though these States are predominantly tribal areas, the underlying objective of the aforesaid Act was to ensure that the members of the Scheduled Tribes in these areas do not fail to secure a minimal representation because of their inability to compete with the advanced sections of the people.

2. The Constitution (Fifty-first Amendment) Act, though formally enforced, cannot be fully implemented unless parallel action is taken to determine the seats which are to be reserved for Scheduled Tribes in these areas. The number of seats reserved for Scheduled Castes and Scheduled Tribes in the Legislative Assembly of any State under article 332 of the Constitution will have to be determined having regard to the provisions of article 332(3) of the Constitution. However, in view of the historical background with respect to the areas comprised in the North-Eastern States, the circumstances obtained in these areas in the state of development of the Scheduled Tribes in these areas and other relevant considerations, it is considered necessary to provide for special arrangements with regard to the reservation for Scheduled Tribes in these areas for a temporary period so as to facilitate easy transition of these areas to the normal arrangements as envisaged in the Constitution. It is, therefore, proposed to further amend article 332 of the Constitution for making a temporary provision, until the re-adjustment of seats on the basis of the first census after the year 2000 under article 170 of the Constitution for these States, for the determination of the number of seats reserved for Scheduled Tribes.

3. The proposed amendment seeks to provide that if all the seats in the Legislative Assembly of such States in existence on the date of coming into force of this Constitution Amendment Act are held by the members of the Scheduled Tribes, all the seats except one shall be reserved for Scheduled Tribes and in any other case such number of seats as bears to the total number of seats a proportion not less than the number of members belonging to the Scheduled Tribes in the existing Assembly bears to the total number of seats in the existing Assembly.

4. The Bill seeks to achieve the above object.

NEW DELHI;

The 25th August, 1987.

BUTA SINGH.

BILL No. 94 OF 1987

A Bill further to amend the Representation of the People Act, 1950.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Second Amendment) Act, 1987.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Representation of the People Act, 1950, after section 9 and before the sub-heading "*The State Legislative Councils*", the following section shall be inserted, namely:—

'9A. (1) As soon as may be after the coming into force of the Representation of the People (Second Amendment) Act, 1987, the Election Commission shall, having regard to the provisions of the Constitution and the principle specified in clause (d) of sub-section (1) of section 9 of the Delimitation Act, 1972, determine the assembly constituencies in the States of Meghalaya, Mizoram and Nagaland in which seats shall be reserved for the Scheduled Tribes.

(2) The Election Commission shall,—

(a) publish its proposals under sub-section (1) with respect to any State in the Official Gazette and also in such other manner as it thinks fit;

(b) specify a date on or after which the proposals will be further considered by it;

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Amend-
ment of
Act 43
of 1950.

Power of
Election
Commis-
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constitu-
encies to
be re-
served for
Sche-
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Tribes in
certain
States.

76 of 1972.

(c) consider all objections and suggestions which may have been received by it before the date so specified;

(d) hold, for the purpose of such consideration, if it thinks fit so to do, one or more public sittings at such place or places in such State as it thinks fit;

(e) after considering all objections and suggestions which may have been received by it before the date so specified, determine, by order, the assembly constituency or constituencies in the State in which seats shall be reserved for the Scheduled Tribes and cause such order to be published in the Official Gazette; and, upon such publication, the order shall have the full force of law and shall not be called in question in any court and the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, or, as the case may be, the Mizoram (Delimitation of Assembly Constituencies) Order, 1986 shall be deemed to have been amended accordingly.

(3) Every order made under sub-section (2) shall, as soon as may be after it is published under that sub-section, be laid before the Legislative Assembly of the State concerned.

Explanation.—For the purposes of this section, “assembly constituency” means,—

(a) in relation to the States of Meghalaya and Nagaland, the assembly constituencies in those States as specified in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976; and

(b) in relation to the State of Mizoram, the assembly constituencies as specified in the Mizoram (Delimitation of Assembly Constituencies) Order, 1986.’.

STATEMENT OF OBJECTS AND REASONS

The Bill is a sequel to the amendments proposed to be made in article 332 of the Constitution by the Constitution (Fifty-eighth Amendment) Bill, 1987, for the purpose of providing for reservation of seats for the Scheduled Tribes in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland.

2. The new section 9A proposed to be introduced in the Representation of the People Act, 1950 by clause 2 of the Bill empowers the Election Commission to determine, having regard to the provisions of the Constitution and section 9(1) (d) of the Delimitation Act, 1972, the assembly constituencies in the States of Meghalaya, Mizoram and Nagaland which shall be reserved for the Scheduled Tribes. Such determination with regard to the assembly constituencies in the State of Arunachal Pradesh will be done by the Election Commission under the powers given to it by section 14 of the State of Arunachal Pradesh Act, 1986.

3. The Bill seeks to achieve the above object.

NEW DELHI;

The 25th August, 1987.

H. R. BHARDWAJ.

BILL No. 90 OF 1987

A Bill to provide for the levy of a tax on expenditure incurred in certain hotels.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Expenditure-tax Act, 1987.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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and
commence-
ment.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(1) “assessee” means a person responsible for collecting the expenditure-tax payable under the provisions of this Act;

(2) “assessment year” means the period of twelve months commencing on the 1st day of April every year;

(3) “Board” means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963;

(4) “chargeable expenditure” means the expenditure referred to in section 5;

(5) “expenditure-tax” or “tax” means the tax chargeable under the provisions of this Act;

(6) "hotel" includes a building or part of a building where residential accommodation is, by way of business, provided for a monetary consideration;

(7) "Income-tax Act" means the Income-tax Act, 1961;

43 of 1961.

(8) "person responsible for collecting" means a person who is required to collect tax under this Act or is required to pay any other sum of money under this Act and includes—

(a) every person in respect of whom any proceedings under this Act have been taken, and

(b) every person who is deemed to be an assessee-in-default under any provision of this Act;

(9) "prescribed" means prescribed by rules made under this Act;

(10) "room charges" means the charges for a unit of residential accommodation in a hotel and includes the charges for—

(a) furniture, air-conditioner, refrigerator, radio, music, telephone, television, and

(b) such other services as are normally included by a hotel in room rent,

but does not include charges for food, drinks and any services other than those referred to in sub-clauses (a) and (b);

(11) all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

Applica-
tion of
the Act.

3. (1) Subject to the provisions of sub-section (2) and sub-section (3), this Act shall apply in relation to any chargeable expenditure incurred in a hotel wherein, the room charges for any unit of residential accommodation at the time of the incurring of such expenditure are four hundred rupees or more per day per individual.

(2) Where a composite charge is payable in respect of residential accommodation and food, the room charges included therein shall be determined in the prescribed manner.

(3) Where—

(i) a composite charge is payable in respect of residential accommodation, food, drinks and other services, or any of them, and the case is not covered by the provisions of sub-section (2), or

(ii) it appears to the Income-tax Officer that the charges for residential accommodation, food, drinks or other services are so arranged that the room charges are understated and the other charges are overstated,

the Income-tax Officer shall, for the purposes of sub-section (1), determine the room charges on such reasonable basis as he may deem fit.

Charge
of
expendi-
ture-tax.

4. Subject to the provisions of this Act, there shall be charged on and from the commencement of this Act, a tax at the rate of ten per cent. of the chargeable expenditure.

5. For the purposes of this Act, chargeable expenditure means any expenditure incurred in, or payments made to, a hotel to which this Act applies, in connection with the provision of.—

Meaning of chargeable expenditure.

- (a) any accommodation, residential or otherwise; or
- (b) food or drink by the hotel, whether at the hotel or outside, or by any other person at the hotel; or
- (c) any accommodation in such hotel on hire or lease; or
- (d) any other services at the hotel, either by the hotel or by any other person, by way of beauty parlour, health club, swimming pool or other similar services,

but does not include—

- (a) any expenditure which is incurred, or the payment for which is made, in foreign exchange;
- (b) any expenditure incurred by persons within the purview of the Vienna Convention on Diplomatic Relations, 1961, or the Vienna Convention on Consular Relations, 1963;
- (c) any expenditure incurred in any shop or in any office which is not owned or managed by the person who carries on the business of a hotel;
- (d) any expenditure by way of any tax, including tax under this Act.

Explanation.—For the purposes of this section,—

(a) expenditure incurred or any payment made in Indian currency obtained by conversion of foreign exchange into Indian currency shall in such cases and in such circumstances as may be prescribed be deemed to have been incurred or, as the case may be, made in foreign exchange; and

(b) “foreign exchange” and “Indian currency” shall have the meanings respectively assigned to them in clauses (h) and (k) of section 2 of the Foreign Exchange Regulation Act, 1973.

46 of 1973.

6. (1) Every Director of Inspection, Commissioner of Income-tax, Commissioner of Income-tax (Appeals), Inspecting Assistant Commissioner of Income-tax, Income-tax Officer and Inspector of Income-tax shall have the like powers and perform the like functions under this Act as he has and performs under the Income-tax Act, and for the exercise of his powers and the performance of his functions, his jurisdiction under this Act shall be the same as he has under the Income-tax Act.

Tax authorities.

(2) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be issued—

- (a) so as to require any tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(b) so as to interfere with the discretion of the Commissioner (Appeals) in the exercise of his appellate functions.

(3) Every Income-tax Officer employed in the execution of this Act shall observe and follow the orders, instructions and directions issued for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions.

Collection and recovery of expenditure-tax.

7. (1) Where any chargeable expenditure is incurred in a hotel to which this Act applies,—

(i) if such expenditure relates to any of the services, specified in clauses (a) to (d) of section 5, provided by the hotel, the person who carries on the business of such hotel; and

(ii) if such expenditure relates to any of the services, specified in clause (b) or clause (d) of section 5, provided by the other person referred to therein, such other person,

shall collect the expenditure-tax at the rate specified in section 4.

(2) The tax collected during any calendar month in accordance with the provisions of sub-section (1) shall be paid to the credit of the Central Government by the 10th day of the month immediately following the said calendar month.

(3) Any person responsible for collecting the tax who fails to collect the tax in accordance with the provisions of sub-section (1) shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section (2).

Person responsible for collecting tax to furnish prescribed return.

8. (1) Every person responsible for collecting the tax shall before the expiry of four months from the 31st day of March in each year, furnish or cause to be furnished to the Income-tax Officer in the prescribed form and verified in the prescribed manner, a return in respect of the immediately preceding financial year showing—

(a) the aggregate of the payments received in respect of chargeable expenditure;

(b) the amount of the tax collected;

(c) the amount of the tax paid to the credit of the Central Government; and

(d) such other particulars as may be prescribed.

(2) In the case of any person who, in the opinion of the Income-tax Officer, is responsible for collecting tax under this Act and who has not furnished a return under sub-section (1), the Income-tax Officer may, before the expiry of the financial year in which the return is to be furnished, issue a notice to him and serve the same upon him, requiring him to furnish within thirty days from the date of service of the notice the return in the prescribed form and verified in the prescribed manner setting forth such other particulars as may be prescribed.

(3) Any person responsible for collecting the tax who has not furnished the return within the time allowed under sub-section (1) or sub-section (2), or having furnished a return under sub-section (1) or sub-section (2) discovers any omission or wrong statement therein, may

furnish a return or a revised return, as the case may be, at any time before the assessment is made.

9. (1) For the purpose of making an assessment under this Act, the Income-tax Officer may serve on any person who has furnished a return under section 8 or upon whom a notice has been served under sub-section (2) of section 8 (whether a return has been furnished or not) a notice requiring him on a date therein to be specified, to produce or cause to be produced such accounts or documents or other evidence as the Income-tax Officer may require for the purposes of this Act and may, from time to time, serve further notices requiring the production of such further accounts or documents or other evidence as he may require.

Assess-
ment.

(2) The Income-tax Officer, after considering such accounts, documents or other evidence, if any, as he has obtained under sub-section (1) and after taking into account any relevant material which he has gathered, shall, by an order in writing, assess the chargeable expenditure and the amount of tax payable on the basis of such assessment.

10. If—

Best judg-
ment assess-
ment.

(a) any person fails to make the return required by any notice given under sub-section (2) of section 8 and has not made a return or a revised return under sub-section (3) of that section, or

(b) any person having made a return fails to comply with all the terms of a notice issued under sub-section (1) of section 9, or

(c) the Income-tax Officer is not satisfied with the correctness or the completeness of the accounts of the assessee,

the Income-tax Officer, after taking into account all the relevant material which he has gathered, shall, by an order in writing, make the assessment of the chargeable expenditure to the best of his judgment and determine the sum payable by the assessee or refundable to the assessee on the basis of such assessment.

11. If—

Charge-
able expen-
diture
escaping
assess-
ment.

(a) the Income-tax Officer has reason to believe that by reason of omission or failure on the part of the assessee to make a return under section 8 for any assessment year or to disclose wholly and truly all material facts necessary for his assessment for any assessment year, chargeable expenditure for that year has escaped assessment or has been under-assessed, or

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the Income-tax Officer has, in consequence of information in his possession, reason to believe that chargeable expenditure assessable in any assessment year has escaped assessment or has been under-assessed,

he may, in cases falling under clause (a), at any time, and in cases falling under clause (b), at any time within four years from the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under section 8 and may proceed to assess or reassess the chargeable expenditure, and the provisions of this Act shall, so far as may be, apply, as if the notice was a notice issued under that section.

Rectifica-
tion of
mistake.

12. (1) With a view to rectifying any mistake apparent from the record, the tax authority referred to in section 6 which passed any order under the provisions of this Act may, within four years of the date on which such order was passed, amend the order.

(2) Where any matter has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

(3) Subject to the other provisions of this section, the authority concerned—

(a) may make an amendment under sub-section (1) of its own motion, and

(b) shall make such amendment if any mistake is brought to its notice,—

(i) by the assessee; or

(ii) where the authority concerned is the Commissioner (Appeals), by the Income-tax Officer.

(4) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(5) Where an amendment is made under this section, an order shall be passed in writing by the tax authority concerned.

(6) Subject to the other provisions of this Act where any such amendment has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee.

(7) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be issued under section 20 and the provisions of this Act shall apply accordingly.

Time
limit
for
comple-
tion of
assess-
ment and
reassess-
ment.

13. (1) No order of assessment shall be made under section 9 or section 10 at any time after the expiration of a period of four years from the end of the assessment year in which the chargeable expenditure was first assessable, or one year from the date of the filing of the return or revised return under section 8, whichever is later.

(2) No order of assessment or reassessment shall be made under section 11,—

(a) where the assessment or reassessment is to be made in a case falling within clause (a) of section 11 for which a notice has been served upon the assessee, at any time after the expiration of a period of four years from the end of the assessment year in which the said notice was served;

(b) where the assessment or reassessment is to be made in a case falling within clause (b) of section 11, for which a notice has been served, after the expiration of a period of—

(i) four years from the end of the assessment year in which the chargeable expenditure was first assessable, or

(ii) one year from the date of service of such notice.

whichever is later.

(3) Notwithstanding anything contained in sub-sections (1) and (2), an order of fresh assessment in pursuance of an order passed under section 21, section 22 or section 23, setting aside or cancelling an assessment, may be made at any time before the expiry of four years from the end of the financial year in which the order under section 21 is passed by the Commissioner, or, as the case may be, the order under section 22 or section 23 is received by the Commissioner.

(4) The provisions of sub-sections (1) and (2) shall not apply to the assessment or reassessment made in consequence of, or to give effect to, any finding or direction contained in an order under section 21, section 22, section 23 or any order of a High Court or Supreme Court in a proceeding by way of reference or appeal under this Act or any order of any court in a proceeding otherwise than by way of an appeal or reference under this Act and such assessment or reassessment may, subject to the provisions of sub-section (3), be completed at any time.

Explanation.—In computing the period of limitation for the purposes of this section, the period during which the assessment proceeding is stayed by an order or injunction of any court shall be excluded.

14. Every person responsible for collecting expenditure-tax and paying it to the credit of the Central Government in accordance with the provisions of section 7, who fails to credit the tax to the account of the Central Government within the period specified in that section, shall pay simple interest at the rate of one and one half per cent. for every month or part of a month by which such crediting of tax is delayed.

Interest
on
delayed
payment
of
expendi-
ture-tax.

15. Any person responsible for collecting expenditure-tax in accordance with the provisions of sub-section (1) of section 7, who—

(a) fails to collect such tax; or

(b) having collected the tax, fails to pay such tax to the credit of the Central Government in accordance with the provisions of sub-section (2) of that section,

shall pay.—

Penalty
for
failure
to collect
or pay
expendi-
ture-tax.

(i) in the case referred to in clause (a), in addition to paying tax in accordance with the provisions of sub-section (3) of that section, by way of penalty, a sum equal to the amount of tax that he failed to collect; and

(ii) in the case referred to in clause (b), in addition to paying interest in accordance with the provisions of section 14, by way of penalty, a sum which shall not be less than one hundred rupees, but

which may extend to two hundred rupees for every day during which the failure continues.

Penalty
for
failure
to furnish
prescribed
return.

16. If a person fails to furnish in due time the return which he is required to furnish under sub-section (1) of section 8 or by notice given under sub-section (2) of that section, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees, but which may extend to two hundred rupees for every day during which the failure continues.

Penalty
for
conceal-
ment of
charge-
able ex-
penditure.

17. If the Income-tax Officer or the Commissioner (Appeals) in the course of any proceedings under this Act is satisfied that any person has concealed particulars of chargeable expenditure or has furnished inaccurate particulars of such chargeable expenditure, he may direct that such person shall pay by way of penalty, in addition to any expenditure-tax payable by him, a sum which shall not be less than, but which shall not exceed twice, the amount of tax sought to be evaded by reason of concealment of particulars of chargeable expenditure or the furnishing of inaccurate particulars of such chargeable expenditure:

Provided that if the amount of chargeable expenditure (as determined by the Income-tax Officer on assessment) in respect of which particulars have been concealed or inaccurate particulars have been furnished exceeds a sum of twenty-five thousand rupees, the Income-tax Officer shall not issue any direction for payment by way of penalty without the previous approval of the Inspecting Assistant Commissioner.

Penalty
for
failure
to
comply
with
notice.

18. If the Income-tax Officer in the course of any proceedings under this Act is satisfied that any person has failed to comply with a notice under sub-section (1) of section 9, he may direct that such person shall pay, by way of penalty, in addition to any tax payable by him, a sum which shall not be less than ten per cent. but which shall not exceed fifty per cent. of the amount of the tax, if any, which would have been avoided if the chargeable expenditure returned by such person had been accepted as the correct chargeable expenditure.

Penalty
not to be
imposed
in certain
cases.

19. Notwithstanding anything contained in the provisions of section 15, section 16, section 17 or section 18, no penalty shall be imposed on the assessee for any failure referred to in the said provisions if he proves that there was reasonable cause for the said failure.

Notice
of
Payment.

20. When any tax, interest, penalty or any other sum is payable under this Act, the Income-tax Officer shall serve upon the assessee a notice of demand in the prescribed form, specifying the sum so payable and the amount of chargeable expenditure in relation to which such sum is payable.

Revision
of
orders
by
the
Commis-
sioner.

21. (1) The Commissioner may, either of his own motion or on application by the assessee for revision, call for the record of a proceeding under this Act which has been taken by the Income-tax Officer subordinate to him and may make such enquiry or cause such enquiry to be made and, subject to the provisions of this Act, may pass such order thereon as he thinks fit.

(2) No order which is prejudicial to the assessee shall be passed under this section unless the assessee has been given an opportunity of being heard.

(3) No order under this section shall be passed by the Commissioner, if an appeal against the notice of demand issued by the Income-tax Officer under section 20 is pending before the Commissioner (Appeals).

(4) No order under this section shall be passed after the expiry of two years from the end of the financial year in which the order sought to be reviewed has been passed.

22. (1) Any person objecting to the amount of expenditure-tax for which he is assessed by the Income-tax Officer, or denying his liability to be assessed under this Act, or objecting to an order levying penalty under this Act, may appeal to the Commissioner (Appeals).

Appeals
to
the
Commis-
sioner
(Appeals).

(2) Every appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to tax, interest or penalty under this Act:

Provided that the Commissioner (Appeals) may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(4) The Commissioner (Appeals) shall hear and determine the appeal and, subject to the provisions of this Act, pass such orders as he thinks fit and such orders may include an order enhancing the assessment or penalty:

Provided that an order enhancing the assessment or penalty shall not be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(5) The procedure to be adopted in the hearing and determination of the appeals shall, with any necessary modification, be in accordance with the procedure applicable in relation to income-tax.

23. (1) Any assessee aggrieved by an order passed by a Commissioner under section 21, or an order passed by a Commissioner (Appeals) under any provision of this Act, may appeal to the Appellate Tribunal against such order.

Appeals
to
Appellate
Tribu-
nals.

(2) The Commissioner may, if he objects to any order passed by the Commissioner (Appeals) under any provision of this Act, direct the Income-tax Officer to appeal to the Appellate Tribunal against the order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the assessee or to the Commissioner, as the case may be.

(4) The Income-tax Officer or the assessee, as the case may be, on receipt of a notice that an appeal against the order of the Commissioner (Appeals) has been preferred under sub-section (1) or sub-section (2) by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Commissioner (Appeals), and such memorandum shall be disposed of by the Appellate

Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4), be accompanied by a fee of two hundred rupees.

(7) Subject to the provisions of this Act, in hearing and making an order on any appeal under this section, the Appellate Tribunal shall exercise the same powers and follow the same procedure as it exercises and follows in hearing and making an order on any appeal under the Income-tax Act.

Applica-
tion of
provi-
sions of
Income-
tax Act.

24. The provisions of the following sections and Schedules of the Income-tax Act and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, shall apply with necessary modifications as if the said provisions and the rules referred to expenditure-tax instead of to income-tax:—

2 (43B) and (44), 118, 125, 125A, 128 to 136 (both inclusive), 138, 140, 144A, 159 to 163 (both inclusive), 166, 167, 170, 171, 173 to 179 (both inclusive), 187, 188, 189, 220 to 227 (both inclusive), 229, 231, 232, 237 to 245 (both inclusive), 254 to 262 (both inclusive), 265, 266, 268, 269, 278B, 278C, 278D, 278E, 281, 281B, 282, 283, 284, 287, 288, 288A, 288B, 289 to 293 (both inclusive), the Second Schedule and the Third Schedule:

Provided that references in the said provisions and rules to the "assessee" shall be construed as references to an assessee as defined in this Act.

Wilful
attempt
to
evade
tax, etc.

25. If a person wilfully attempts in any manner whatsoever to evade collection or payment of any tax, penalty or interest chargeable or impossible under this Act, or to understate the aggregate of the chargeable expenditure, he shall, without prejudice to any penalty that may be impossible on him under any other provision of this Act, be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

Explanation.—For the purposes of this section, a wilful attempt to evade collection or payment of any tax, penalty or interest chargeable or impossible under this Act shall include a case where any person—

(i) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement; or

(ii) makes or causes to be made any false entry or statement in such books of account or other documents; or

(iii) wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or

(iv) causes any other circumstances to exist which will have the effect of enabling such person to evade collection or payment of any tax, penalty or interest chargeable or imposable under this Act.

26. If a person fails to furnish in due time the return which he is required to furnish under sub-section (1) of section 8 or by a notice given under sub-section (2) of that section, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

Failure to furnish prescribed returns.

27. If a person makes a statement in any verification under this Act or any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

False statement in verification, etc.

28. If a person abets or induces in any manner another person to make and deliver an account or a statement or declaration relating to any chargeable expenditure which is false and which he either knows to be false or does not believe to be true or to commit an offence under section 25, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

Abetment of false return, etc.

29. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under section 25 or section 26 or section 27 or section 28 shall be deemed to be non-cognizable within the meaning of that Code.

Certain offences to be non-cognizable.

30. (1) A person shall not be proceeded against for any offence under section 25 or section 26 or section 27 or section 28, except with the previous sanction of the Commissioner:

Institution of proceedings and composition of offences.

Provided that no such sanction shall be required where the complainant before the court is a Commissioner (Appeals).

(2) The Commissioner may, either before or after the institution of proceedings, compound any offence punishable under section 25 or section 26 or section 27 or section 28.

31. (1) The Board may, subject to the control of the Central Government, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which the room charges may be determined under sub-section (2) of section 3 in cases where composite charges are payable in respect of residential accommodation and food;

(b) the cases and the circumstances in which payments made in Indian currency by conversion of foreign exchange into Indian currency shall be deemed to have been made in foreign exchange for the purposes of clause (a) of the *Explanation* to section 5;

2 of 1974.

45 of 1860.

(c) the form in which returns under section 8 may be furnished, the manner in which they may be verified and the other particulars which a form may contain;

(d) the form in which a notice of demand may be served on the assessee under sub-section (7) of section 12;

(e) the form in which appeals under section 22 or under sub-section (6) of section 23 may be filed and the manner in which they may be verified;

(f) the manner in which a memorandum of cross-objections under sub-section (4) of section 23 may be verified;

(g) any other matter which by this Act is to be or may be prescribed.

(3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date of commencement of this Act.

(4) The Central Government shall cause every rule made under this section to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to
remove
difficul-
ties.

32. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

Conse-
quential
amend-
ments.

33. (1) In section 2 of the Central Boards of Revenue Act, 1963, in sub-clause (1) of clause (c),—

54 of 1966.

(a) in item (viii), the word "and" occurring at the end shall be omitted;

(b) after item (viii) as so amended, the following item shall be inserted, namely:—

"(ix) the Expenditure-tax Act, 1987; and".

(2) In the Economic Offences (Inapplicability of Limitation) Act, 1974, in the Schedule, after entry 2B relating to the Hotel-Receipts Tax Act, 1980, the following entry shall be inserted, namely:—

12 of 1974,
34 of 1980.

"2C. The Expenditure-tax Act, 1987."

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to impose a tax on expenditure incurred in hotels where the room charges for any unit of residential accommodation are four hundred rupees or more per day per individual. This tax will be levied at the rate of ten per cent of the expenditure incurred in connection with provision of any accommodation, food, drinks, and certain other categories of services. This tax will not apply to expenditure incurred in foreign exchange or in the case of a person enjoying diplomatic privileges.

NEW DELHI:

The 21st August, 1987.

NARAYAN DATT TIWARI.

PRESIDENTS RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. 22/FB/87-TPL dated 21-8-1987 from Shri Narayan Datt Tiwari Minister of Finance to the Secretary-General Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill which seeks to provide for levy of a tax on expenditure incurred in certain hotels, has recommended under article 117(1) of the Constitution of India, introduction of the Bill in Lok Sabha.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 31 of the Bill empowers the Central Board of Direct Taxes to make rules for carrying out the provisions of the proposed legislation. Sub-clause (2) of that clause enumerates the matters in relation to which rules may be made. Such rules may be made *inter alia* for laying down the manner in which the room charges may be determined under clause 3(2) in cases where composite charges are payable in respect of residential accommodation and food; for specifying the cases and the circumstances in which payments made in Indian currency by conversion of foreign exchange into Indian currency shall be deemed to have been made in foreign exchange for the purposes of clause 5; specifying the form in which returns under clause 8 may be furnished and the manner in which such returns may be verified and the particulars which such form may contain; specifying the form in which a notice of demand may be served on the assessee under clause 12(7); specifying the form in which appeals may be filed under clause 22 or clause 23 and the manner in which they may be verified; specifying the manner in which a memorandum of cross-objections under clause 23(4) may be verified. The Central Board of Direct Taxes is also being empowered to make rules, on the first occasion, with retrospective effect from a date not earlier than the date of commencement of the proposed legislation.

2. The matters in respect of which rules may be made are matters of administrative detail which cannot be incorporated in the proposed legislation. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 92 OF 1987

A Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1987-88.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (No. 4) Act, 1987.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of six hundred and eighty-seven crores and seventy-seven lakhs rupees towards defraying the several charges which will come in course of payment during the financial year 1987-88, in respect of the services specified in column 2 of the Schedule.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Short
title.

Issue
of Rs. 687,
77,00,000
out of
the Con-
solidated
Fund of
India
for the
year
1987-88.

Appro-
priation.

THE SCHEDULE
(See sections 2 and 3)

1	2	3		
		Sums not exceeding		
No of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
2	Other Services of Department of Agriculture and Co-operation Revenue	..	1,00,000	1,00,000
	Capital	..	50,00,000	50,00,000
7	Department of Supply Revenue	..	12,00,000	12,00,000
10	Telecommunication Services Capital	1,00,000	..	1,00,000
18	Department of Power Revenue	1,00,000	..	1,00,000
21	Ministry of External Affairs Revenue	18,38,00,000	..	18,38,00,000
22	Department of Economic Affairs Revenue	9,00,000	..	9,00,000
	Capital	121,54,00,000	..	121,54,00,000
23	Currency, Coinage and Stamps Revenue	..	5,00,000	5,00,000
24	Payments to Financial Institutions Capital	153,14,00,000	..	153,14,00,000
27	Transfers to State Governments Revenue	100,68,00,000	..	100,68,00,000
	Capital	..	216,56,00,000	216,56,00,000
40	Cabinet Revenue	4,00,00,000	..	4,00,00,000
42	Other Expenditure of the Ministry of Home Affairs Revenue	5,00,00,000	..	5,00,00,000
44	Department of Education Revenue	1,00,000	..	1,00,000
46	Art and Culture Revenue	5,00,00,000	..	5,00,00,000
49	Department of Company Affairs Revenue	..	1,19,00,000	1,19,00,000
52	Ministry of Information and Broadcasting Revenue	..	2,00,000	2,00,000
53	Broadcasting Services Revenue	78,00,000	..	78,00,000
55	Law and Justice Revenue	..	2,50,00,000	2,50,00,000
58	Ministry of Petroleum and Natural Gas Revenue	52,97,00,000	..	52,97,00,000
	Capital	1,18,00,000	..	1,18,00,000

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
64	Department of Biotechnology Capital	2,00,00,000	..	2,00,00,000
66	Department of Mines . Revenue	2,00,000	..	2,00,000
69	Surface Transport . . Revenue	1,00,000	..	1,00,000
77	Ministry of Welfare . . Revenue	2,00,00,000	..	2,00,00,000
	TOTAL :	466,82,00,000	220,95,00,000	687,77,00,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 114(1) of the Constitution of India, read with article 115 thereof, to provide for the appropriation out of the Consolidated Fund of India of the moneys required to meet the supplementary expenditure charged on the Consolidated Fund of India and the grants made by the Lok Sabha for expenditure of the Central Government, excluding Railways, for the financial year 1987-88.

B. K. GADHVI.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. F.4(56)-B(SE)/87 dated 20 August, 1987 from Shri B. K. Gadhvi, Minister of State for Finance to the Secretary-General, Lok Sabha].

The President, having been informed of the subject matter of the proposed Bill to authorise appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year ending on the 31st day of March, 1988, recommends the introduction of the Appropriation (No. 4) Bill, 1987 in Lok Sabha and also recommends to Lok Sabha the consideration of the Bill under article 117(1) and (3) of the Constitution read with article 115(2) thereof.

2. The Bill will be introduced in Lok Sabha after all the Supplementary Demands for Grants for 1987-88 have been voted.

SUBHASH C. KASHYAP,
Secretary-General.